MOHD. YUSOF BIN SAID

v.

PUBLIC PROSECUTOR

FEDERAL COURT, KUALA LUMPUR
TAN SRI DATO' ANUAR ZAINAL ABIDIN CJ (MALAYA)
TAN SRI DATO' HJ. MOHD. AZMI DATO' HJ. KAMARUDDIN FCJ
DATO' MOHAMED DZAIDDIN HJ. ABDULLAH FCJ
[CRIMINAL APPEAL NO. 05-8-1992]
9 FEBRUARY 1996

DANGEROUS DRUGS: *Trafficking in cannabis - Chemist described drug as "cannabis as defined under DDA 1952. Resin had not been extracted" - Whether sufficient to prove that drug was cannabis as defined in s. 2 of Act - Whether possible that chemist adverted to "cannabis (Indian Hemp)" in Part III of First Schedule of Act - Non-reference to s. 2 thereof - Whether necessarily fatal - Whether Court to look into totality of chemist evidence - Dangerous Drugs Act 1952 ss. 2, 12(2), 39B(1)(a).*

EVIDENCE*: Evidence of chemist - Trafficking in cannabis - Section 39B(1)(a) Dangerous Drugs Act 1952 - Reference to "cannabis" - Whether advisable that chemist refer to drug as "cannabis as defined under s. 2 DDA 1952" - Omission to expressly state "s. 2" - Effect.*

This was an appeal by the appellant against his conviction and sentence in respect of an offence under s. 39B(1)(a) of the Dangerous Drugs Act 1952 (the Act), for trafficking in 1302.9 grams of cannabis, for which he was sentenced to death. The appeal turned on the evidence of the chemist which the appellant alleged was "insufficient, inadequate, doubtful and ambiguous to prove that the drug was "cannabis" as defined in the Act". The facts showed that in his evidence, the chemist testified that he had subjected the drug in question to the standard analyses, namely, the Microscopic Examination, the Dequenois Levin Test and the Thin Layer Chromatography Test, and was satisfied, by reason of the analyses, that the plant material was cannabis. In confirming the plant material as cannabis, however, the chemist did not mention "cannabis as defined in s. 2 of the Act", but instead used the expression "*by cannabis I mean cannabis as defined under DDA, 1952. Resin had not been extracted*". In this appeal, the appellant argued, on the authority of *Shukri bin Mohamed v. Public Prosecutor* [1995] 3 CLJ 799; [1995] 3 MLJ 229, that the chemist's failure to specifically mention "cannabis as defined under s. 2 of the Act" was fatal, as such omission had created a doubt as to whether the drug he was referring to was "cannabis" as defined in that s. 2 or "cannabis (Indian Hemp)" as listed in Part III of the First Schedule of the Act. It was also submitted that following *Shukri*, the conviction of the appellant ought to be quashed, and the sentence of death be set aside and substituted

with a conviction for a lesser offence under s. 12(2) of the Act. Before the learned Judges, the issue that arose was whether the omission to specify s. 2 of the Act herein had given rise to the inference that the chemist did not have in his mind the ingredients of cannabis as defined in that section.

Held: Per Mohd Dzaiddin Abdullah FCJ (delivering the judgment of the Court):

[1] Although the chemist has failed to state in unequivocal term the words "section 2 of the Act", nonetheless, taking his entire evidence, it cannot be said that such failure had given rise to the inference that he did not have in mind the ingredients of cannabis as defined therein. Also, judging from his detailed testimony regarding his examination and analysis of the plant material in question, where he *inter alia* testified that the result of the Microscopic Examination showed positively there was presence of cannabis resin and the Dequnois Levin and T.L.C tests confirmed that the plant material was cannabis, there is no doubt that the cannabis he was talking about is cannabis under s. 2 of the Act, and not Indian Hemp.

[2] The rationale in *Shukri* for requiring the chemist to state the expression "cannabis as defined in s. 2 of the DDA 1952", seems to be that he should be unequivocal and not be in any doubt that the plant material which he had examined and analysed was "cannabis as defined in s. 2" and not "cannabis (Indian Hemp)" as listed in Part III of the First Schedule of the Act. However, whether or not it is fatal for the chemist to have omitted the words "section 2", depends on his evidence in each particular case. If the testimony of the chemist satisfies the essential ingredients in the statutory definition of "cannabis", then mere omission to mention the section would not be material and should not affect his expert opinion.

[3] The evidence of the chemist in the present appeal can clearly be distinguished from *Shukri*. Unlike *Shukri*, the chemist here did not stop at *"I mean cannabis as defined under DDA 1952"*, but went a step further by qualifying that *"Resin had not been extracted"*. The latter expression, no doubt, is one of the ingredients of the definition of "cannabis" in s. 2, i.e "any part of the genus cannabis from which the resin has not been extracted". In substance, therefore, the chemist did have the section 2 definition in mind in referring to "cannabis" the way he did. This apart, and unlike *Shukri*, the evidence here did not suffer from the defect that the chemist made no mention of the result of his examination and laboratory tests. The evidence of the chemist, hence, does not suffer from the two infirmities highlighted by the Supreme Court in *Shukri*.

Per Curiam: The aforesaid notwithstanding, to avoid similar difficulty in future, it would be better for the chemist to state "cannabis as defined in s. 2, DDA 1952".

[Appeal dismissed]

[Bahasa Malaysia *Translation of Headnotes]*

DADAH BERBAHAYA: *Mengedar kanabis - Ahli kimia menerangkan dadah sebagai "kanabis sepertimana yang ditakrifkan di bawah DDA 1952. Resin belum dikeluarkan" - Samada memadai bagi membuktikan bahawa dadah itu merupakan kanabis sepertimana yang ditakrifkan dalam s. 2 Akta - Samada berkemungkinan bahawa ahli kimia merujuk kepada "kanabis (India Hemp)" dalam Bahagian III Jadual Pertama Akta - Ketiadaan rujukan kepada s. 2 - Samada semestinya memudaratkan - Samada Mahkamah harus memberi perhatian kepada keseluruhan keterangan ahli kimia - Akta Dadah Berbahaya 1952 ss. 2, 12(2), 39B(1)(a).*

KETERANGAN: *Keterangan ahli kimia - Mengedar kanabis - Seksyen 39B(1)(a) Akta Dadah Berbahaya 1952 - Rujukan kepada "kanabis" - Samada ianya lebih baik bagi ahli kimia merujuk kepada dadah sebagai "kanabis sepertimana yang ditakrifkan di bawah s. 2 DDA 1952" - Kegagalan menyatakan dengan nyata "s. 2" - Kesan.*

Ini adalah rayuan oleh perayu terhadap sabitannya dan hukuman berhubung dengan satu kesalahan di bawah s. 39B(1)(a) Akta Dadah Berbahaya 1952 (Akta tersebut), kerana mengedar 1302.9 gram kanabis, bagi yang mana beliau telah dijatuhkan hukuman mati. Rayuan tersebut membangkitkan keterangan ahli kimia yang mana perayu mengatakan adalah "tidak mencukupi, tidak memadai, meragukan dan kabur bagi membuktikan dadah tersebut adalah "kanabis" sepertimana yang ditakrifkan dalam Akta tersebut". Fakta menunjukkan bahawa dalam keterangannya, ahli kimia telah menyatakan bahawa beliau telah mendedahkan dadah yang dipersoalkan itu kepada analisa yang standard, iaitu Pemeriksaan Mikorskopik, Ujian Dequenois Levin, dan Ujian Thin Layer Chromatography, dan telah berpuashati dengan analisa yang dijalankan itu, bahawa bahan pokok tersebut adalah kanabis. Namun demikian, dalam mengesahkan bahawa bahan pokok tersebut adalah kanabis, ahli kimia tidak menyebut "kanabis sepertimana yang ditakrifkan dalam s. 2 Akta," tetapi sebaliknya menggunakan ungkapan *"dengan ungkapan kanabis, saya bermaksud kanabis sepertimana yang ditakrifkan di bawah DDA, 1952. Resin telah tidak dikeluarkan"*. Dalam rayuan ini, perayu berhujah, atas autoriti *Shukri bin Mohamed lwn. Pendakwa Raya* [1995] 3 CLJ 799; [1995] 3 MLJ 229, bahawa kegagalan ahli kimia untuk menyebut secara khususnya "kanabis sepertimana yang ditakrifkan di bawah s. 2 Akta" adalah memudaratkan, kerana peninggalan yang sedemikian telah wujudkan suatu keraguan mengenai samada dadah yang telah beliau rujuk itu adalah "kanabis"

sepertimana yang ditakrifkan dalam s. 2 itu atau "kanabis (Indian Hemp)" sepertimana yang disenaraikan dalam Bahagian III Jadual Pertama Akta. Telah juga dihujahkan bahawa berikutan daripada kes *Shukri*, sabitan perayu seharusnya dibatalkan, dan hukuman mati diketepikan dan digantikan dengan sabitan bagi kesalahan yang lebih ringan di bawah s. 12(2) Akta. Di hadapan Hakim yang bijaksana, isu yang berbangkit adalah samada peninggalan mengkhususkan s. 2 Akta di sini telah membangkitkan inferens bahawa ahli kimia telah tidak memikirkan dalam fikirannya bahan-bahan kanabis sepertimana yang ditakrifkan dalam seksyen itu.

Diputuskan:

Oleh Mohd Dzaiddin Abdullah, HMP (menyampaikan Penghakiman Mahkamah):

[1] Walaupun ahli kimia telah gagal mengatakan dengan tegas perkataan-perkataan "s. 2 Akta", namun begitu, menimbang keseluruhan keterangannya, ianya tidak boleh dikatakan, bahawa kegagalan yang sedemikian telah membangkitkan inferens bahawa beliau telah tidak terfikir bahan-bahan kanabis tersebut sepertimana yang ditakrifkan didalamnya. Dan juga, melihat pada testimoninya yang terperinci berhubung dengan pemeriksaan dan analisanya terhadap bahan pokok yang dipersoalkan, di mana beliau telah antara lainnya, menerangkan bahawa keputusan Pemeriksaan Mikroskopik telah secara positifnya menunjukkan bahawa terdapatnya resin kanabis dan ujian-ujian Dequnois Levin serta TLC mengesahkan bahawa bahan pokok tersebut adalah kanabis, tidak terdapat apa-apa keraguan bahawa kanabis yang diperkata oleh beliau adalah kanabis di bawah s. 2 Akta tersebut dan bukannya Indian Hemp.

[2] Asas yang lojik dalam *Shukri* bagi menghendakki ahli kimia menyatakan ungkapan "kanabis sepertimana yang ditakrifkan dalam s. 2 DDA 1952" kelihatan seperti ianya haruslah tidak diragui dan tidak seharusnya berasa ragu-ragu bahan pokok yang telah beliau periksa dan analisa tersebut adalah "kanabis sepertimana yang ditakrifkan dalam s. 2" dan bukannya "kanabis (Indian Hemp)" sepertimana yang disenaraikan dalam Bahagian III Jadual Pertama Akta. Walaubagaiman pun, samada ianya memudaratkan atau pun tidak bagi ahli kimia meninggalkan perkataan "S. 2" bergantung pada keterangannya dalam sesuatu kes. Jika testimoni ahli kimia itu memenuhi bahan-bahan penting dalam penakrifan berkanun bagi "kanabis", maka peninggalan menyebut seksyen itu semata-mata tentunya tidak penting dan tidak seharusnya menjejaskan pendapatnya yang mahir itu.

[3] Keterangan ahli kimia dalam rayuan semasa ini boleh diperbezakan dengan jelasnya daripada *Shukri*. Tidak seperti kes *Shukri*, ahli kimia dalam kes ini tidak berhenti setakat menerangkan "Saya bermaksud kanabis sepertimana yang ditakrifkan di bawah DDA 1952" tetapi telah meneruskan selanjutnya dengan "Resin belum dikeluarkan". Ungkapan yang terkemudian,

tanpa diragui, merupakan salah satu bahan bagi penakrifan "kanabis" dalam s. 2, iaitu "mana-mana bahagian dari genus kanabis daripada mana resin masih belum dikeluarkan". Dengan itu, secara intinya, ahli kimia memang memikirkan penakrifan s. 2 dalam merujuk kepada "kanabis" sepertimana yang beliau telah lakukan. Selain dari itu, dan tidak seperti kes *Shukri,* keterangan didalam kes ini tidak mengalami kecacatan bahawa ahli kimia tidak menyebut mengenai keputusan pemeriksaannya dan ujian makmalnya. Keterangan ahli kimia, dengan itu, tidak mengalami kedua-dua kelemahan yang telah ditonjolkan oleh Mahkamah Agung dalam kes *Shukri.*

Per Curiam: Walauapa pun yang diperkatakan di atas, bagi mengelakkan kesukaran yang sama di masa-masa yang akan datang, ianya adalah lebih baik bagi ahli kimia untuk menyatakan "kanabis sepertimana yang ditakrifkan dalam s. 2, DDA 1952".

[Rayuan ditolak].

Cases referred to:
Shukri bin Mohamad v. Public Prosecutor [1995] 3 CLJ 799; [1995] 3 MLJ 229 ***(dist)***
Saime b. Jaafar v. Pendakwa Raya (Federal Court Criminal Appeal 05-99-93) ***(dist)***
Quinn v. Leathem [1901] AC 495 HL 506 ***(refd)***

Legislation referred to:
Dangerous Drugs Act, 1952, ss. 2, 12(2), 39B(l)(a), 39B(2)

For the appellant - Gurbachan Singh; M/s. Bachan & Kartar
For the respondent - Mohd. Yusof Hj. Zainal Abidin; Deputy Public Prosecutor

JUDGMENT

Mohamed Dzaiddin Abdullah FCJ:

The appellant was charged in the High Court, Kangar, for trafficking in a dangerous drug, to wit, cannabis, weighing 1,302.9 grams at about 12 noon at 30 km. Jalan Kangar, Padang Besar, Perlis, on 2 March 1989 under s. 39B(l)(a) and punishable under s. 39B(2) of the Dangerous Drugs Act, 1952 (the Act). He was convicted and sentenced to death.

Before us, the sole ground of appeal that was argued was that the learned Judge erred in law in not holding that the evidence of the chemist, PW1, was "insufficient, inadequate, doubtful and ambiguous to prove that the drug was "cannabis" as defined in the Act". It was the submission of Encik Gurbachan that the chemist in his evidence failed to testify that the impugned drug was "cannabis" as defined under s. 2 of the Act, contrary to the decision of this Court in *Shukri bin Mohamad v. Public Prosecutor* [1995] 3 MLJ 229. Hence, Counsel submitted that following *Shukri*, the conviction of the appellant under s. 39B(l)(a) of the Act should be quashed, and the sentence of death be set aside, and substituted with a conviction under s. 12(2) of the Act.

For the purpose of this appeal, we do not propose to deliberate on the full facts of the case, except to recap the evidence of the chemist, PW1, with respect to his examination and analysis of the newspaper packages containing 1,302.9 grams of cannabis. In his evidence (p.3 of the Appeal Record), PWl testified as follows:

> On 10 April 1989, I received 4 envelopes marked E, El, E2, E3 from Insp. Roslan bin Ali (identified) gave acknowledgment receipt. (p/i P2).
>
> With regard to the 4 envelopes, I examined the content of the envelopes and I found in envelope "E" two newspaper packages. I weighed one of the packages and I removed the wrappers and weighed it. From there, I obtained the net weight of the content. I found the content to consist of dry plant material with characteristic features similar to that of cannabis.
>
> I then took representative sample from dry plant material and did the following tests:
>
> (i) Microscopic examination.
>
> Under the said examination, I detected presence of cannabis resin and also microscopic features of plant material was similar to that of cannabis.
>
> (ii) Duquenois Levin test.
>
> It was positive indicating that plant material is cannabis.
>
> (iii) T. L. C.
>
> This confirmed that plant material is cannabis.
>
> I did the same thing for the other package in envelope "E"
>
> I found net weight of one of the packages to be 198.5 grams. The net weight of plant material of the other package to be 184.7 grams. Hence, I found envelope "E" contain total of 382.2 grams of cannabis.
>
> Similarly, I did the same thing in respect of plant material in envelope E1, I found envelope E1 to contain two newspaper packages. One of the packages had net weight 244.5 grams of cannabis. The other package had 250.4 grams cannabis. This give a total of 494.9 grams cannabis.
>
> I did the same test and weighing in respect of the packages in envelope E2, I found a newspaper package containing 222.4 grams cannabis.
>
> **By "cannabis", I mean cannabis as defined under DDA, 1952. Resin had not been extracted.** *[Emphasis added].*

The question which arises for our decision is whether the above testimony of the chemist, PW1, to the effect that by "cannabis" he meant cannabis as defined under DDA 1952 and that resin had not been extracted, without specifying the crucial words "s. 2" has given rise to the inference that he did

not have in mind the ingredients of cannabis as defined in the said s. 2 of the Act.

In *Shukri,* the appellant appealed to the Federal Court on the ground that the trial Judge was wrong in relying on the evidence of the chemist who merely stated that what he had analysed was "cannabis" as defined in the DDA 1952 without mentioning s. 2 of the Act. The Court found as follows (p. 232):

> A scrutiny of the record provided shows that, in essence, all the chemist had said on the point at issue was that the result of his examination and analysis of the various quantities of plant material which constituted the subject matter of the charge aforesaid, showed that in each case it was 'Cannabis as defined in the Dangerous Drugs Act 1952'. The aggregate net weight of the cannabis being 25,664.8g. The Judge's notes of evidence shows that there were repeated references by the chemist to the expression 'Cannabis as defined in the Dangerous Drugs Act 1952 with no mention made at any time of the definition section in the Act, of cannabis, to wit, s. 2, which at the material time, provided as follows: "'cannabis' means any part of any plant of the genus Cannabis from which the resin has not been extracted, by whatever name it may be designated.
>
> The glaring omission by the chemist to refer to s. 2 of the Act could give rise to the inference that he did not have in mind the ingredients of cannabis as defined therein, and as explained in the Supreme Court case of *PP v. Alcontara* [1993] 3 MLJ; 568 at p. 577.

And at p.233, the Court considered the following infirmities:

> In the present case, the testimony of the chemist also suffered from the defects that it made no mention of the results of his physical examination nor did he mention whether he had carried out any, and if so, what tests**.** We are thus reminded of some of the infirmities from which the testimony of the chemist in the Supreme Court case of *Leong Bon Huat v. PP* [1993] 3 MLJ 11 suffered ...

The Court further found as follows (p. 234):

> Turning to the grounds of judgment, we note that nowhere in it is there any indication that the Judge recognized the infirmities in the testimony of the chemist to which we have adverted nor did he even make the basic finding of fact that the plant material which was the subject matter of the charge was 'cannabis' within the meaning of s. 2 of the Act.

Thus, (on the same page):

> Having regard to the infirmities in the testimony of the chemist to which we have adverted, his testimony is open to the construction that the plant material examined by him was either cannabis within the meaning of s. 2 of the Act or that it was 'cannabis (Indian Hemp)' listed in Pt III of the First Schedule of the Act, though nowhere defined in the Act.

Hence, on the principle that where two views can reasonably be entertained regarding the meaning and effects of provision in a highly penal statute that in favour of the accused should be adopted, the Court ruled (at p. 236) as follows:

> When therefore, as here, the Court is left in doubt as to whether the accused has committed an offence in a lower or higher degree of seriousness the Court should make a finding in the lower degree particularly where a finding in a higher degree will give rise to a mandatory sentence of death. (See *Leong Bon Huat's* case [1993] 3 MLJ 11 at p. 15E-F).
>
> In the result, we allow the appeal, quash the conviction, set aside the sentence of death, and substitute, in lieu thereof, a conviction under s. 12(2) of the Act, and a sentence of five years imprisonment provided under s. 12(3) to take effect from date of arrest.

The ratio in *Shukri* was followed by this Court in *Saime b. Jaafar v. Pendakwa Raya* (Federal Court Criminal Appeal 05-99-93) (unreported) at its sitting in Ipoh on 11 December 1995. In that case, the evidence of the chemist was to the effect that he examined and analysed the dried leaves found in the packages inside two plastic bags. He found them to be cannabis or ganja and concluded as follows:

> cannabis adalah seperti ditakrifkan dalam Akta Dadah Berbahaya 1952.

The Court held, following *Shukri,* that the evidence of the chemist that cannabis as defined in the DDA 1952 without mentioning "s. 2 of the Act" gave rise to an inference that he did not have in mind the ingredients of cannabis as defined in s. 2. The appeal was allowed with conviction and sentence under s. 39B(l)(a) and 39B(2) of the DDA quashed and substituted with conviction under s. 12(2) and punishable under s. 12(3) of the Act.

It could thus be seen that the evidence of the chemist in *Saime* suffered from the same defects as in Shukri in failing to mention s. 2 of the Act, although under cross-examination the chemist testified that he conducted the laboratory tests.

In our opinion, the rationale in Shukri for requiring the chemist to state the expression that "cannabis as defined in s. 2 of the DDA 1952" seems to be that he should be unequivocal and not be in any doubt that the plant material which he had examined and analysed was cannabis as defined in s. 2 and not cannabis as listed in Part III of the First Schedule where the words "Cannabis (Indian Hemp)" appear, though nowhere defined in the Act. Thus, the "glaring omission by the chemist to refer to s. 2 of the Act could give rise to the inference that he did not have in mind the ingredients of cannabis as defined therein ... (per Edgar Joseph Jr. FCJ, at p. 232).

We are in complete agreement with the ratio in *Shukri* because based on the chemist's evidence, as found by the Court, all he had said was that the result of his examination and analysis of the various quantities of plant material showed that in each case it was "cannabis" as defined in the Dangerous Drugs Act 1952 and nothing more. In addition, it is important to note that the Court had also found that the chemist's testimony made no mention of the results of his physical examination, nor did he mention whether he had carried out any of the tests normally conducted by a chemist to confirm whether the plant material is cannabis, i.e. Microscopic, Duquenois Levin and T.L.C. tests. Thus, the combined effect of these two infirmities, which were overlooked by the trial Judge, and his failure to make the basic finding of fact that the said plant material was cannabis within the meaning of s. 2 of the Act had left the Court in doubt as to whether the accused had committed an offence for trafficking under s. 39B(l)(a) or s. 12(2) of the Act.

Having said the above, we are, however, of opinion that the evidence of the chemist, PW1, in the present appeal can be clearly distinguished from *Shukri* Moreover, his evidence clearly does not suffer from the two defects or infirmities as in *Shukri*.

The relevant definition of "cannabis" under s. 2 of the Act at the time the offence was committed reads as follows:

> "Cannabis" means any part of any plant of the genus Cannabis from which the resin has not been extracted, by whatever name it may be designated. [Sub: Act A553 w.e.f. 15.4.1983].

It is clear to us, indeed we do concede**,** that in his evidence, PW1 had failed to state in an unequivocal term the words "s. 2 of the Act". But, taking his entire evidence which we have alluded to above, can it be said that his omission to state the aforesaid words "s. 2" has cast a doubt, or to borrow the expression used in *Shukri*, has given rise "to the inference that he did not have in mind the ingredients of cannabis as defined therein"? In our opinion, we do not think so (having in mind the often quoted cliche "the Devil himself knows not the intent of men") for the following reasons. First, on this particular aspect of PWl's evidence, it is quite clear to us that his evidence did not stop at: "I mean cannabis as defined under DDA, 1952" as in *Shukri* and *Saime*. He went a step further by qualifying that "Resin had not been extracted", which no doubt is one of the ingredients of the definition of "cannabis" in s. 2, i.e. "any part of any plant of the genus Cannabis from which **the resin has not been extracted"** (Emphasis added). In *Shukri*, the Chemist said nothing about the resin. Thus, in substance, PW1 had the s. 2 definition in mind. As for the word "genus", it simply means "a class or group of similar animals or plants" (BBC English Dictionary, 1992). In fact, the issue before us is whether it is fatal to omit the words "s. 2", and our answer is that it depends on the evidence of the chemist in each particular case. If the testimony

of the expert witness satisfied the essential ingredients in the statutory definition of "cannabis", then mere omission to mention the section would not be material and should not affect his expert opinion. Of course, to avoid similar difficulty in future, it would have been better for the chemist to state: "Cannabis as defined in s. 2, DDA 1952".

Secondly, judging from his detailed testimony regarding his examination and analysis of the plant material found in the four envelopes, where he testified, inter alia, that the result of the microscopic I examination showed positively there was presence of cannabis resin and the Duquenois Levin and T.L.C. tests confirmed that the plant material was cannabis, we form the view that the cannabis he was talking about is cannabis under s. 2 of the Act, and not Indian hemp. Again, unlike Shukri, PWl's evidence did not suffer from the defect that he made no mention of the result of his examination and laboratory tests, one of the infirmities which the Court in *Shukri* had taken into consideration in giving the benefit of the doubt in favour of the accused.

Thirdly, unlike Shukri, the learned Judge at least adverted to the chemist's evidence that the plant material was cannabis as defined under DDA 1952 in his grounds of judgment, although falling into error by not stating the words "s. 2".

Therefore, from the combined effect of the evidence of the chemist, PW1, which are clearly distinguishable from *Shukri*, we have no hesitation in coming to the conclusion that his omission to state that by "cannabis" he meant cannabis as defined under s. 2 of the DDA 1952, has not given rise to the inference that he did not have in mind the ingredients of "cannabis" in the said section.

Now, in distinguishing the facts i.e. evidence in this case from those in Shukri and coming to our conclusion as we do here, we are reminded of the speech of the Lord Chancellor, Earl of Halsbury in *Quinn v. Leathem* [1901] AC 495 HL at p. 506:

> (T)here are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all.

Accordingly, in our judgment, this appeal is dismissed. Conviction upheld and sentence affirmed.